

REMARKS

Regarding the Examiner's apparent request that the specification reference the earlier application, it is submitted that the preliminary amendment filed on October 19, 2001 makes the requisite amendment to the specification.

Claim 29 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is respectfully traversed because the claim is drawn to a "compiler", which is a conventionally used term in the art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 101 be withdrawn.

Claims 29-32 and 45-48 stand rejected under 35 U.S.C. § 102 as being anticipated by Christie et al. '975. This rejection is respectfully traversed because Christie et al. '975 does not disclose or suggest each and every limitation recited in the *combination* recited in independent claims 29 and 45. As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed, either expressly or inherently (noting that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999)), in a single prior art reference, *Akzo N.V. v. U.S. Int'l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Christie et al. '975 does not anticipate claims 29 and 45, nor any claim dependent thereon.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claims 29 and 45 are patentable for the

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reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 102 be withdrawn.

CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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